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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,112	09/12/2003	Russell S. Long	02-2361	9095

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EXAMINER

PATEL, KIRAN B

ART UNIT

PAPER NUMBER

3612

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/662,112

Applicant(s)

LONG ET AL.

Examiner

Kiran B. Patel

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 18 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-25 is/are pending in the application.
- 4a) Of the above claim(s) 9-13 and 15-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Final Rejection (9/25/05)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-4, 6-8, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pringnitz (6,796,603) in view of Hanni et al. (5,287,813); Kuei-Yung (6,530,183) and Taul (4,136,985).

Regarding claims 1-4, 6-8, 14, Pringnitz (6,796,603) discloses the invention as claimed to include a frame assembly 14 comprising a top rail, a bottom rail, and a pair of side rails connecting the top and bottom rails, the frame assembly defining a rectangular shape and having an exposed side facing outward from the trailer body when the rear case assembly is attached to the trailer body and an internal side configured to be attached to the trailer body 10; a light guard assembly (Fig 1) attached to the bottom rail on the exposed side of the frame assembly 14, the light guard assembly comprising a pair of light guard members and a bumper

member (Fig 1) connecting the light guard members, the light guard members each defining at least one light-receiving socket; a pair of stiffener members attached (Fig 1) to the side rails, respectively, on the exposed side of the frame assembly for increasing the strength of the side rails.

However, Pringnitz (6,796,603) does not disclose extruded aluminum rails; each side rails having a groove for adapting a stiffener member and a pair of reinforcing plates.

Hanni et al. (5,287,813) discloses in Fig 1-3 extruded aluminum rails.

Kuei-Yung (6,530,183) discloses each side rails having a groove Fig 1 for accepting a stiffener member 5.

Taul (4,136,985) discloses in Fig 1 a pair of reinforcing plates.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention, as disclosed by Pringnitz (6,796,603), to include extruded aluminum rails, as disclosed by Hanni et al. (5,287,813); each side rails having a groove for adapting a stiffener member, as disclosed by Kuei-Yung (6,530,183) and a pair of reinforcing plates, as disclosed by Taul (4,136,985), to optimize the weight and the strength of the frame to achieve better fuel efficiency for the tractor trailer.

Response to Arguments

1. Applicant's arguments with respect to elected claim have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that Hanni is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. *See In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the rail vehicle and tractor trailers are both considered vehicles and solution conceived for one has been used for the other for long many years.


Conclusion

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the

advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

3. Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Kiran B. Patel whose telephone number is 571-272-6665. The examiner can normally be reached on M-F from 8:00 to 5:00. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.


Kiran B. Patel, P.E.
Primary Examiner
Art Unit 3612
September 25, 2005